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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/823,628	04/14/2004	In-pyo Kang	Q80018	4623
23373 7590 10/07/2008 SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037				
EXAMINER				
BELANI, KISHIN G				
ART UNIT		PAPER NUMBER		
2443				
MAIL DATE		DELIVERY MODE		
10/07/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action
Before the Filing of an Appeal Brief

Application No.

10/823,628

Applicant(s)

KANG ET AL.

Examiner

KISHIN G. BELANI

Art Unit

2143

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 16 September 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-24, 26-37, 39 and 41-43.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Tonia LM Dollinger/
Supervisory Patent Examiner, Art Unit 2143

/K. G. B./
Examiner, Art Unit 2143

Continuation of 11, does NOT place the application in condition for allowance because: The amended independent claims 1 and 24 now include the claim text of the cancelled dependent claims 40 and 25 respectively. However, the dependent claims 40 and 25 were previously rejected (in the final office action dated 07/16/2008) under 35 USC 102(e) using the same cited reference Johnson et al. (US Patent Publication # 7,159,174 B2) that was used to reject the independent claims 1 and 24. Therefore, the basis for rejecting the dependent claims 40 and 25 still applies to the amended independent claims 1 and 24, needing no new response from the examiner.

As to the arguments presented by the applicants in their special after final amendment of 09/16/2008, the examiner has already explained his reasoning for rejecting these claims in the "Response to Arguments" section of the final office action and in a long telephonic interview with the applicants' representative. yet, the same arguments are repeated. The examiner summarizes his response to the presented arguments once again:

The applicants argue that for the independent claim 1, the teachings in the Johnson et al. reference "PC 106 (i.e. the content device)" loading the mapping file 234 and the playlists 220 and 222 onto the media player (i.e. the target device), when any conditions for execution, determined based on the interpreted stored synchronization data, are fulfilled" do not represent the elements of claim 1. The examiner's interpretation of the "condition of execution" corresponds to determining capabilities of the media player to play the media contents in the playlists. Based on this determination and the user's received instructions (in step 1208 of Fig. 12 in the Johnson et al. reference) and media playlists, a mapping file is generated (step 1210) by associating the media player capabilities, user instructions, and playlists. The media content along with any metadata, the mapping file and the playlists are loaded on the media player (in step 1212) and the mapping file is synchronized with the playlists on the media player. To the examiner, these actions represent "conditions for execution".

The applicants further argue that the above actions are not based on "interpreting stored synch data". The generation of the mapping file is based on the interpretation of the stored playlists, user instructions, and determined media player capabilities, which do correspond to stored synch data. Furthermore, the applicants argue that "no action command is issued by the content device to the target device if conditions for execution of the content are fulfilled". The examiner, in the previous office action, had explained that the loaded metadata (samples shown in Figs. 6-9 of the Johnson reference) include commands to play the media contents according to the mapping file. Step 1212 in Fig. 12, along with the XML commands in the metadata constitute "action command is issued by the content device to the target device if conditions for execution of the content are fulfilled".

Continuing the argument for claim 1, the applicants challenge the examiner's basis for rejecting claim 1, by stating that the cited reference does not teach that the media player 102 can perform an action at a preset time without a button being pressed. The examiner would like to point out that claim 1 has no such text. This feature is for the independent claims 24 and 32. For these two claims, the examiner had cited the XML commands in Fig. 6 that automatically make a phone call at a particular time and play a pre-recorded message without any user input. However, the applicants do not consider that as equivalent to the claim element in claims 24 and 32. The examiner respectfully disagrees with their assertion and maintains the rejections of claims 24 and 32.

Finally, the applicants argue that the media player 102 making a phone call at the preset time would be the "target device" issuing the action command to the "target device" if the condition for execution is fulfilled". The examiner begs to disagree with this assertion. The action command to make a phone call at a preset time without user intervention, is included by the content device in the XML code for the metadata loaded on the media player 102 during synchronization step 1212. Contrary to the assertion, the target device (media player) is merely executing the XML command at the specified time, not issuing the command to itself.

The remaining claims present no new arguments, and therefore need no response from the examiner.

The examiner accepts the new drawing and corrected specification paragraphs and withdraws the objections. The examiner presently accepts the amended claim 32 to be in compliance with 35 USC 112 and claims 32-37 to be in compliance with 35 USC 101.